

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 71.37

### § 71.31 Attorneys and other representatives.

A respondent or applicant may be represented by an attorney, certified public accountant, or other person enrolled to practice before the Alcohol and Tobacco Tax and Trade Bureau under 31 CFR part 8—Practice before the Alcohol and Tobacco Tax and Trade Bureau. The representative shall file in the proceeding a duly executed power of attorney to represent the applicant or respondent. See 26 CFR 601.501 through 601.527 (conference and practice requirements). The appropriate TTB officer shall be represented in proceedings under this part by the attorney for the Government who is authorized to execute and file motions, briefs, and other papers in the proceeding, on behalf of the appropriate TTB officer, in his own name as “Attorney for the Government”.

(5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. ATF-48, 44 FR 55846, Sept. 28, 1979, as amended by T.D. ATF-92, 46 FR 46918, Sept. 23, 1981; T.D. ATF-374, 61 FR 29957, June 13, 1996]

### Subpart D—Compliance and Settlement

#### § 71.35 Opportunity for compliance.

Except in proceedings involving willfulness or those in which the public interest requires otherwise, and the appropriate TTB officer so alleges in his citation, stating his reasons therefor, no permit shall be suspended, revoked or annulled, unless, prior to the institution of proceedings, facts or conduct warranting such action shall have been called to the attention of the permittee by the appropriate TTB officer, in writing, and the permittee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements, as set forth in section 9(b) of the Administrative Procedure Act. If the permittee fails to meet the requirements of the law and regulations within such reasonable time as may be specified by the appropriate TTB officer, proceedings for sus-

pension, revocation or annulment of the permit shall be initiated.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9196, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

#### INFORMAL SETTLEMENT

#### § 71.36 General.

In all proceedings in which a permittee is cited to show cause why the permit should not be suspended, revoked or annulled, the permittee shall be afforded opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment, where time, the nature of the proceeding, and the public interest permit. Such submissions should be made to the appropriate TTB officer, but may be made through the attorney for the Government. Where necessary, the date of the hearing may be postponed, pending consideration of such proposals, when they are made in good faith and not for the purpose of delay. If proposals of settlement are submitted, and they are considered unsatisfactory, the appropriate TTB officer may reject the proposals and may, either directly or through the attorney for the Government, inform the permittee of any conditions on which the alleged violations may be settled. If the proposals of settlement are considered satisfactory to the appropriate TTB officer, the permittee shall be notified thereof and the proceeding shall be dismissed, unless such proposals of settlement include a monetary offer in compromise considered satisfactory to the appropriate TTB officer, in which event the proceeding shall be held in abeyance pending final action on such monetary offer in compromise.

[T.D. ATF-244, 51 FR 45762, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

#### § 71.37 Notice of contemplated action.

Where the appropriate TTB officer believes that the matter may be settled informally, i.e., without formal administrative proceedings, he shall, in accordance with section 5 (b) of the Administrative Procedure Act, prior to the issuance of a citation, inform the permittee of the contemplated issuance